

REMARKS

Claims 22-42 remain pending and under current examination. Applicants respectfully traverse the rejection made in the Final Office Action, wherein the Examiner rejected claims 22-42 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,836,467 (“*Stanley*”) in view of U.S. Patent No. 6,829,491 (“*Yea*”).

Procedural Matter:

The Final Office Action did not respond to Applicants’ arguments regarding the objection to the drawings filed on May 15, 2009, nor did it indicate that the drawings have been accepted. *See* Final Office Action Summary PTOL-326. Applicants respectfully request that the Examiner consider Applicants’ arguments and indicate that the drawings have been accepted in the next communication from the Office.

Rejection of Claims 22-42 under 35 U.S.C. § 103(a):

Applicants request reconsideration and withdrawal of the rejection of claims 22-42 under 35 U.S.C. § 103(a) as being unpatentable over *Stanley* in view of *Yea*.

The Final Office Action has not properly resolved the *Graham* factual inquiries, as required to establish a framework for an objective obviousness analysis. *See* M.P.E.P. § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, 82 USPQ2d 1385 (2007). In particular, the Final Office Action has not properly determined the scope and content of the prior art, at least because the Final Office Action incorrectly interpreted the content of *Stanley*. Specifically, *Stanley* does not teach or suggest what the Final Office Action attributes to *Stanley*. In addition, the Final Office Action has not properly ascertained the differences between the claimed invention and the prior art, at least because the Final Office

Action has not properly interpreted the prior art and considered both the invention and the prior art as a whole. See M.P.E.P. § 2141(II)(B).

The Final Office Action alleged that *Stanley* in view of *Yea* renders Applicants' claims 22-42 obvious. See Final Office Action, pages 2-8. Specifically, the Final Office Action alleged that *Stanley* teaches the elements of claim 22 at col. 2, lines 47-67, Abstract, col. 5, lines 49-62, and col. 17, lines 14-34 of *Stanley*. See Final Office Action, page 2. This is incorrect.

Contrary to these allegations, *Stanley* does not disclose or suggest at least Applicants' claimed "step of defining at least one cost function to be optimized, said at least one cost function being indicative of the quality of service of at least one class of services rendered by the network," as recited in claim 22 (emphases added).

Stanley's "cost function" is different from Applicants' claimed "cost function," at least because *Stanley*'s "cost function" does not indicate the quality of service rendered by a network. Rather, *Stanley*'s "cost" refers to price or money to be paid. For example, *Stanley* discloses that "[w]ireless communications is a capital-intensive business, and carriers are continuously seeking to reduce costs associated with cellular communications networks." *Stanley*, col. 1, lines 32-34. *Stanley* further discloses that "a total system infrastructure cost may be written as" *Stanley*, col. 1, line 38. Moreover, *Stanley* discloses that "[e]ach cost component is a sum of its element costs, such as equipment, land, and facilities." *Stanley*, col. 1, lines 46-47.

In contrast, Applicants' claimed "cost function" is clearly defined in the originally-filed specification at page 8, equation 1, as "characterised by merit functions for voice, data and location services" and in that it "point[s] out a merit value (e.g. QoS) as some combination of other related parameters." Specification, page 8, lines 4-13 (emphases added). In other words, Applicants' claimed "cost function" is a "function" related to a merit value which is determined by input parameters. The claimed "cost function" therefore has nothing to do with the "cost"

disclosed in *Stanley*. In fact, *Stanley* does not teach or suggest anything about a “cost function being indicative of the quality of service,” as claimed.

The Final Office Action applies *Yea* against the last element of claim 22, after admitting that “Stanley does not explicitly teach comprising the step of selecting, by the computer, said at least one class of services as location-based services rendered by said network.” Final Office Action, page 3. *Yea*, however, does not cure the deficiencies of *Stanley* discussed in the previous paragraphs. For example, *Yea* discloses a communication network which “dynamically adjust operating parameters to redistribute network loading.” *Yea*, col. 2, lines 28-29. However, *Yea* does not teach or suggest at least Applicants’ claimed “step of defining at least one cost function to be optimized, said at least one cost function being indicative of the quality of service of at least one class of services rendered by the network,” as recited in claim 22 (emphases added).

Thus, the Final Office Action has neither properly determined the scope and content of the prior art, nor properly ascertained the differences between the prior art and the claimed invention. In view of the reasoning presented above, Applicants therefore submit that independent claim 22 is not obvious over *Stanley* and *Yea*, whether taken alone or in combination. Independent claim 22 should therefore be allowable. Dependent claims 23-42 should also be allowable at least by virtue of their respective dependence from base claim 22, and because they recite additional features not taught or suggested by *Stanley* and *Yea*. Accordingly, Applicants request withdrawal of the 35 U.S.C. § 103(a) rejection.

Conclusion:

Applicants request reconsideration of the application and withdrawal of the rejection. Pending claims 22-42 are in condition for allowance, and Applicants request a favorable action. This Request for Reconsideration after Final does not raise any new issues or require the

Examiner to undertake another search of the art, and should therefore allow for immediate and favorable action.

The Final Office Action contains statements characterizing the related art and the claims. Regardless of whether any such statements are specifically identified herein, Applicants decline to automatically subscribe to any statements in the Final Office Action.

If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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